

Carroll Free Press.

VOL. II

CARROLLTON, FRIDAY, MAY 27, 1836,

NO. 37.—WHOLE NO. 89.

AN ACT

To incorporate the Yellow Creek, Carrollton and Zoar Rail Road Company.

Sec. 1. Be it enacted by the General Assembly of the State of Ohio, That Jacob Groff, William McCullough, Jacob Nesly, Nathaniel Myers, Tolbert Townsend, James Mitchell, John Croxton, Abraham Myers, Thomas George, Mordecai Moore, Robert George, Jacob Lewton, William Mills, James Smith, John Pearce, William Johnston, James Sinclair, John Beatty, Isaac Atkinson, Kendall Jackson, J. B. Emery, Jacob Chamber, Edward McGuire, Robert Ogle, Jacob Shaffer, George Davis, James Boreland, James Davis, Rodolphus Roe, Edmund Ogden, Daniel McGreggor, Robert Meek, John Cross, David McConnell, Joseph Van Buskirk, I. S. Lappen, Joseph M. Bimeler, Solomon Sala, Lewis Burk, Christian Ruoff, Jacob Ackerman, George Gazely, Jacob Silven and Casper Peters, of the State of Ohio, their associates and successors be and they are hereby constituted and made a body politic and corporate, and shall remain a corporation forever, under the name of the Yellow Creek, Carrollton & Zoar Rail Road Company, and, by that name, may sue and be sued, and be sued and prosecuted, to final judgment and execution in all courts having competent jurisdiction, and may have a common seal and the same alter and renew at pleasure, and shall be and hereby are vested with all the powers or privileges which are by law incident to corporations of a similar nature, and which are necessary for the purpose of constructing a single or double rail way or road, from the mouth of Big Yellow creek, in Jefferson county, O. and thence by such route as, after due examination and survey, shall be found to be most eligible, to a point in the main street in the town of Carrollton, in Carroll county, where Lisbon street crosses said main street, thence by way of Lisbon and canal street, by such route as, after due examination and survey, shall be found most eligible, through the village of Zoar to the line of the Ohio canal.

Sec. 2. That if the corporation hereby created shall not, within five years from the passage of this act, commence, and within fifteen years thereafter, construct, finish, and put in operation the said single or double rail road or way, then the said corporation shall thenceforth cease, and this act shall be null and void.

Sec. 3. That the capital stock of said company shall be one million of dollars, and shall be divided into shares of fifty dollars each, which shall be deemed personal property, and transferable in such manner as the by laws of said company shall direct.

Sec. 4. That the persons named in the first section of this act, or any fifteen or more of them, who may consent to act as such, shall be commissioners, whose duty it shall be, so soon after the taking effect of this act, as a majority of them that will agree to act, shall judge proper, to cause books to be opened at such time and place as they shall think fit, in the States of Ohio, Pennsylvania, and elsewhere, under the management of such persons as they shall appoint, for receiving subscriptions to the capital stock of said company, each subscriber to be a member of the corporation, for all purposes, and public notice shall be given in such manner as may be deemed advisable by said commissioners, or a majority of them, may prescribe the form of said subscription; and when the sum of fifty thousand dollars shall have been subscribed, it shall be the duty of said commissioners, or a majority of them, to call a meeting of the subscribers by causing notice to be published in one or more newspapers in general circulation in the respective places in which the books may have been opened, and stock subscribed, at least twenty days previous thereto, of the time and place of such meeting which shall be at some convenient town or place near the route of the contemplated rail road; at which meeting the stockholders who shall attend in person, or by lawful proxy, shall elect thirteen directors, who shall hold their offices until the expiration of one year, and until others shall be chosen in their places; and said commissioners shall be inspectors of the first election of directors of the said corporation, and shall certify under their hands the names of those duly elected, and shall deliver over to them the said certificate and subscription books.

Sec. 5. The management of the concerns of said corporation shall be entrusted to thirteen directors, to be elected annually by the stockholders, by ballot, and the directors first chosen, at any subsequent election, shall immediately thereafter meet and elect one of their number who shall be president thereof until another election, and also appoint a treasurer and secretary, who may be removed at the pleasure of said president and directors, and others appointed in their places; and a majority of the said directors shall constitute a board for every purpose within the provisions of this act.

Sec. 6. That in case it should at any time happen that the election of directors should not be made on any day when, pursuant to this act, it ought to be made, the said corporation shall not, for that cause, be deemed to be dissolved; but such election may be held at any other time, directed by the laws of the said corporation.

Sec. 7. That each subscriber shall

pay to the commissioners, or to the persons appointed by them to receive subscriptions to the capital stock of said company, at the time of subscribing the sum of one dollar on each share for which he shall subscribe, and the same shall be deemed and taken as an installment paid on account of the stock to which he will become entitled by such subscription; and the commissioners shall pay over all monies so paid to the directors elected in pursuance of the provisions of the fourth section of this act.

Sec. 8. That the books of subscription shall remain open as long as the president and directors of said company shall see fit, and each subscriber shall be bound to pay from time to time such installments on his or her, or their stock as the said president and directors may lawfully require, they giving at least sixty days' notice, they giving at least sixty days' notice of the time and place of making the payments required, in such public newspapers in Pennsylvania and Ohio, and elsewhere, as will be best calculated to give information thereof to the stockholders; but no assessment shall ever be made so as to render any subscriber liable to pay more than fifty dollars for a share: Provided, that not more than one fourth part of the subscription shall be required in any one year from the commencement of the work; if, however, after the closing of said books, or at any time, it shall appear that sufficient funds have not been raised, the president and directors of said company, or its officers duly authorized for that purpose, may at any time, and from time to time, raise the necessary funds by creating and selling additional shares in such manner and upon such terms as the president and directors shall prescribe, for any sum under their par value, and the holders of such additional shares shall thenceforward be members of said corporation for all purposes. Said president and directors, or a majority of them, shall have power to borrow money for the object of this act, to issue certificates or other evidence of such loans, and to pledge the property of the company for the payment of the same and its interest.

Sec. 9. That if any subscriber shall fail or neglect to pay any installment or part of any subscription by him previously subscribed, for the space of sixty days after the same shall be due and payable, the stock shall be forfeited to the company and may be sold by the president and directors for the benefit of said company, after thirty days' notice, given in some newspaper in general circulation; and if said shares so sold shall not amount to a sum sufficient to discharge the balance due on said shares, the subscribers shall be personally liable for the balance still remaining due; and if said shares shall sell for a sum more than sufficient to pay said balance, the same shall be paid over to said subscriber or subscribers on demand made for the same.

Sec. 10. That all elections for directors, and at all general meetings of the stockholders, each stockholder shall be entitled to one vote for every share owned by him or her. And every executor, administrator, trustee or guardian, shall be entitled to like privileges of voting on behalf of the estate, copartnership, corporation or society of which he may be such executor, administrator, trustee or guardian: Provided, that no share shall confer the right of voting at the first election of said company, unless one dollar on such share shall have been fully paid, as directed by the seventh section of this act, at all subsequent elections no share or shares shall confer on the holder or holders thereof the right of voting unless all the installments called for and then due, shall have been fully paid, according to the seventh section of this act.

Sec. 11. That it shall and may be lawful for any corporation or state, or for the government of the United States, to become subscribers for any number of shares of stock in said company, upon the same terms as other subscribers are authorized to take and subscribe for the same: Provided, that for every ten hundred shares respectively owned by any corporation or state, or by the government of the United States, at the first election for directors of said company, and at all subsequent general elections for directors of said corporation, state, or government of the United States, may each appoint one additional director of said company, but shall not be permitted to vote upon their stock in the election of directors by the stockholders in general meetings; and provided, also, that no number of shares, less than ten hundred, owned by any corporation, state, or government of the United States, shall confer any right of voting for directors of said company, or at any meeting of the stockholders, upon such corporation, state, or government of the United States.

Sec. 12. That if any vacancy shall occur by death, resignation, or refusal to act, of any president, or director, before the year for which he was elected shall have expired, a person to fill such vacant place for the residue of the year, may be appointed by the president and directors of said company, or a majority of them.

Sec. 13. That at the regular annual meeting of the stockholders of said

company, it shall be the duty of the president and directors in office for the preceding year to exhibit a clear and distinct statement of the affairs of said company; that at any general meeting of the stockholders, a majority (in value) of all the stockholders in said company may remove from office any president or any of the directors of said company, and may appoint others in their stead.

Sec. 14. That every president and director of said company, before he acts as such, shall swear or affirm, that he will well and truly discharge the duties of his said office, to the best of his skill and judgment.

Sec. 15. That the said president and directors shall annually or semi-annually declare and make such dividends as they may deem proper, of the net profits arising from the resources of said company, after deducting the necessary current and probable contingent expenses, and that they shall divide the same amongst the proprietors of the stock of said company, in proper proportion to their respective shares.

Sec. 16. That the president and directors of said company, or a majority of them, or any person or persons authorized by a majority of them, may agree with the owner or owners of any such land, earth, timber, gravel, stone or other materials, for the purchase or use or occupation of the same; and if they cannot agree, and if the owner or owners, or any of them, be a feme covert, under age, non compos mentis or out of the county in which the property wanted may be, when such land and materials may be wanted, application may be made to any justice of the peace of such county, who shall thereupon issue his warrant, under his hand and seal, directed to the sheriff of said county, or to some disinterested person, if the sheriff shall be interested, requiring him to summon a jury of twelve disinterested inhabitants of said county, to meet on the land or near to the property or materials to be valued, on a day named in said warrant, not less than ten nor more than twenty days after the issuing of the same; and if at the said time and place any of the said persons summoned do not attend, the sheriff or summoner shall immediately summon as many persons as may be necessary, with the persons in attendance, to furnish a panel of twelve jurors; and from them each party, or its, his, her or their agent, or if either be not present in person or by agent, the sheriff or summoner for it, him, her or them, may strike off three jurors, and the remaining six shall act as the jury of inquiry of damages, and before they act as such, the said sheriff or summoner shall administer to each of them an oath or affirmation, that they will justly and impartially value the damages which the owner or owners will sustain by the use and occupation of such land or materials, or both, as may be required by the said company; and the jury, in estimating the damages, in case it be for the land used for said road, shall take into the estimate the benefits resulting to said owner or owners, from conducting such rail road through, along, or near the property of said owner or owners, in extinguishment of the claim for damages; and the said jury shall reduce their inquiry to writing, and shall sign the same, and it shall then be returned to the clerk of the court of common pleas for the county, and by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown, and when confirmed, shall be recorded by said clerk at the expense of said company; but if set aside, the said court may direct another inquiry to be taken in the manner above prescribed, and such inquiry shall describe the property taken, or the bounds of the lands to be occupied, and the amount of such valuation when paid or tendered to the owner or owners of said property, or his, her or their legal representative, shall entitle the said company to the said property or the use and occupation of said land, so long as the same shall be used for said rail road. And the valuation, if not received when tendered, may at any time thereafter be received from said company without costs by the said owner or owners, or their legal representatives; and that such sheriff or summoner, and jurors, shall be entitled to receive from said company the same fees as are allowed for like services in cases of appraisement of real estate, previous to sale, under execution.

Sec. 17. That if after the location of said rail road as aforesaid, any alteration shall be made in the course thereof, the damages may be estimated in the same way, and the same proceedings had in manner provided in this

act: Provided, however, that in all cases it shall be competent for said company, and any corporation or corporations, person or persons, injured by the location or construction thereof, to refer the question of damages to such arbitrators as they may agree upon, whose awards, when made and returned to the court of common pleas within and for the county in which the damages have been sustained, and affirmed by said court, shall be final, and said court may enter judgment accordingly.

Sec. 18. That upon payment by the said company of such damages to the person or persons, corporation or corporations, to whom the same may have been assessed or awarded, as in this act before provided, then the said company shall be deemed to be seized and possessed of the use of all such lands or real estate, not exceeding one hundred feet in width, as shall have been assessed or appraised by commissioners or arbitrators as herein before provided, so long as the same shall be used for such road; and it shall be the duty of the commissioners and arbitrators so chosen, to embrace in their reports or awards a description of the lands or real estate for which they shall assess damages, as aforesaid: Provided, always, that where the said road may be located in and through any street or streets of any village, the said company shall not be deemed seized and possessed of more than fifty feet in width of such street or streets.

Sec. 19. That in any suit instituted against the said corporation, the service of legal process on the President, or any one of the directors, or on the treasurer or secretary of said corporation, shall be deemed and held in all courts and places, as a sufficient and valid service on said corporation.

Sec. 20. That full right and privilege is hereby reserved to this state or any company hereafter to be incorporated under the authority of this state to connect with the road hereby incorporated, any other rail road leading from the main route to any other part or parts of this state: Provided, That in forming such connection no injury shall be done to the works of the company hereby incorporated.

Sec. 21. That any individual or company or body corporate owning a manufacturing establishment of any kind or description in the vicinity of said rail road, may at any time that he, they or their agent may deem it expedient to connect a lateral road running by his or their establishment at any two points that he, they, or their agent may think most practicable, at his or their individual expense: Provided, always, that the said road company, (or any person or persons under their direction,) propelling machines, wagons, vehicles, or carriages of any description whatsoever which they may deem necessary for the purposes of transportation on said road shall have the privilege of travelling, using or occupying said lateral road at pleasure, or if circumstances should require, without the payment of toll for using the same.

Sec. 22. That whenever in the construction of said road or roads it shall be necessary to cross or intersect any established road or ways, it shall be the duty of the president and directors of said company so to construct the said road across such established road or way as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide such individual, proper wagon ways across said road or roads, from one part of his land to another.

Sec. 23. That the said president and directors, or a majority of them, shall have power to purchase with the funds of said company and place on any rail road constructed by them under this act, all machines, wagons, vehicles or carriages, of any description whatsoever, which they may deem necessary or proper for the purpose of transportation on said road, and they shall have power to charge for tolls upon, (and the transportation of persons) goods, produce, merchandise or property of any kind whatsoever, transported by them along said rail way, any sum not exceeding the following rates; on all goods, merchandise or property of any description whatsoever, transported by them, a sum not exceeding one and one half cents per mile for toll, and five cents on a ton per mile for transportation, on all goods, produce, merchandise or property of any description whatsoever, transported by them or their agents, and for the transportation of passengers, not exceeding three cents for each passenger, and it shall not be lawful for any other company, or any person or persons whatsoever, to trav-

el upon or use any of the roads of said company or to transport persons, merchandise, produce or property of any description whatsoever along said road or any of them, without the leave or permission of the president and directors of said company, and that the said road or roads, with all their works, improvements and profits, and all machinery of transportation used on said road, are hereby vested in said company incorporated by this act, and their successors forever.

Sec. 24. That if any person or persons shall willfully, by any means whatever, injure, impair or destroy any part of any rail road constructed by said company under this act, or any of the necessary works, buildings, carriages, vehicles or machines of said company, such person or persons so offending, shall each of them for every such offence, forfeit and pay to the said company treble the damages, which may be recovered in the name of said company by any action of debt, in any court having jurisdiction of the same, and shall also be subject to indictment in the courts of the counties where such offence is committed; and upon conviction of such offence, shall be punished by fine and imprisonment: Provided no fine in any case shall exceed five hundred dollars nor imprisonment any period longer than thirty days.

Sec. 25. That this act shall be deemed a public act, and shall be benignly and favorably construed for the purposes therein expressed, and declared in all courts and place whatsoever.

Sec. 26. This act shall not be so construed as to vest in said company any banking power.

Sec. 27. That if at any time after said rail road may be located, any unforeseen obstacles, impediments or inconveniences occur on the route located, the said corporation shall have power to deviate from the course marked out, so far and in such manner as may be best calculated to surmount, overcome or avoid such obstacles, impediments or inconveniences; said corporation satisfying the damages that may be occasioned thereby to be assessed in the manner provided by this act, and the said corporation shall from time to time make such alterations in the course of said rail road as may be necessary or expedient, satisfying all damages in manner aforesaid.

Sec. 28. That the State shall have a right at any time after forty years from the time fixed for the completion of said rail road, to purchase, and for the use of the state, by paying to the company the whole of the value of the stock at the time of the purchase, such valuation to be ascertained by two disinterested appraisers one to be chosen by the Governor of the state and the other by the President of the company, and if the said appraisers can not agree they shall choose an umpire, and their decision shall be final in this state.

Sec. 29. That the right to alter or amend this act whenever the legislature shall deem the same expedient and proper is hereby reserved to the state: Provided that no alteration shall be made in the rates of toll or transportation established by this act, until the expiration of forty years from and after the time fixed for the completion of said road.

JOHN H. KEITH,
Speaker of the House of Representatives.
DAVID T. DISNEY,
Speaker of the Senate.
March 1, 1834.

HORRIBLE TRAGEDY.

At no time since the commencement of our editorial labors, have we been called upon to perform so unpleasant a duty as that which now devolves upon us. The story, shocking as it is on account of the death of a most meritorious man, and the probable death of another, and revolting as was the spectacle afterwards exhibited, shall be briefly told. On Thursday evening last about 7 o'clock Mr. George Hammond, Deputy Sheriff, and Mr. Wm. Mull, Deputy Constable, in the execution of their official duty, left the magistrate's office, having in charge a free mulatto man named Francis L. McIntosh, of Pittsburgh, Pa. The prisoner had, some time in the afternoon, interfered with the officers while engaged in arresting two sailors for a breach of the peace, by which means he effected the escape of the offenders. McIntosh was then taken into custody, carried before Justice Walsh, and, the fact being proved, a warrant of commitment to jail was made out, and delivered to the officers. On their way to the prison, and when they had reached the court house square, the prisoner inquired what would be his punishment? He was told; and at that moment he broke loose from them—drew a long knife, and made a pass at Mull, but missed him. His next stab was better aimed, inflicting a wound upon the right side.

Mr Hammond seized the miscreant by the shoulder; and the latter, turning round, gave him a death-blow. The blade of the knife struck the lower part of the chin, cutting all the large arteries of the neck, & passing downward. The victim turned, walked about twenty paces and expired. The murderer then fled. Mr. M., altho' dangerously wounded, followed him until he was completely exhausted. His cries alarmed the neighborhood—the fellow was pursued, and, after some ineffectual resistance, taken and committed to jail.

The atrocious crime was known in a few minutes throughout the city. Crowds of citizens gathered around the dead body of the victim. The murder in cold blood of an officer, in the execution of his duty the universal respect in which that officer was held—the cries of his children, suddenly deprived of their protector—produced an instant and intense degree of excitement. Under the influence of these feelings, summary measures were resolved upon. The murderer was forced from the jail by the assembled multitude, carried to the border of the town, and burned to death! It is said, that several thousand persons witnessed the revolting spectacle. There was no tumult, no disturbance of any kind; but the crowd retired quietly to their several homes.

We shall not pretend, that we do not exceedingly regret this sanguinary termination of the tragedy. For the fair fame of our town, we could wish that it had not been resorted to. But we believe, that if the same terrible scene had been enacted in any other town of the union, under the same sudden and tumultuous excitement, similar summary proceedings would have been adopted. Let the veil of oblivion be drawn over the fatal affair!

McIntosh came to this city, as took on board the steam boat Flora. He was a most desperate villain. It is understood that he committed a murder in New Orleans less than a year since; and not long ago he stabbed the mate of the steam boat Pawnee, while under weigh; for which act he was put on shore and severely whipped.

Mr Mull is yet living, though his recovery is scarcely hoped for. Mr. Hammond was a most worthy man, and an honest, capable and energetic officer. Possessed of sound judgment, a cool temperament and tried courage, he was never at a loss what course to pursue, in the execution of his duty. He has left an afflicted widow, several children, and a host of friends, to regret a dispensation which has cut him off in the midst of his usefulness.

St. Louis Republican.

WE ARE PASSING AWAY.

When we look abroad over the face of nature, we are continually reminded that all things which are of earth, shall pass away. The dew drop glistens like a diamond at early dawn—a few moments, and it has vanished from our sight. We have the mild sunshine of April morning, but we look again, and a dark cloud obscures our vision. We admire the bright color of the flower of summer which scatters its fragrance to the breeze, but while we inhale its sweet perfume it withers and falls to the ground. The seared and faded leaf of autumn, as it floats on the gale, and the sun when it sinks in the western horizon, should be to us a voice, speaking in a language not to be mistaken—Ye too are passing away.

Let us reverse the picture. As the dew shall return with the evening, and the morning shall be succeeded by the "bow of promise;" and the hues of summer, which is displaced by the sober tints of autumn, shall be removed by the breath of another spring, so man, though his days are a shadow which fleet away, if he faithfully perform the duties assigned him on earth, shall leave the savor of his good name, like the ray light from the setting sun, and rise again in glory, in that world which passeth not away, but abideth forever.—*Zion's Herald.*

An editor in Illinois excuses himself for delay in publishing his paper on the ground that theague has shaken all his teeth loose, and has compelled him to use both hands to hold his breathes on; and that all his workmen are as badly off as himself.—*W. Va. Times.*

To save cucumbers from bugs.—Sprinkle on at evening (after cool) tea grounds, as they are commonly left by lamies after use. This done as often as two or three times in a week, not only prevents injuries from bugs, but strengthens and invigorates the vine and causes it to become exceedingly fruitful.